

TOLER SCHAFFER, LLP
5000 Plaza on the Lake, Suite 265
Austin, TX 78746
Ph. 512-327-5515
Fax 512-327-5575

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FACSIMILE COVER SHEET

DATE: September ~~12~~³, 2006

TO: Examiner SAMS, Matthew C. **FAX NO.:** 571-273-8300
USPTO GPAU 2617

FROM: Jeffrey G. Toler
Reg. No.: 38,342

RE U.S. App. No.: 11/668,686, filed September 23, 2003

Applicant(s): Larry B. Pearson, et al.

Atty Dkt No.: 1033-SS00414

Title: LOCATION BASED CALL ROUTING FOR CALL ANSWERING
SERVICES

NO. OF PAGES (including Cover Sheet): 10

MESSAGE:

Attached please find:

- ☒ Transmittal Form (1 pg)
- ☒ Pre-Appeal Brief Request for Review (1 pg)
- ☒ Notice of Appeal (1 pg (in duplicate))
- ☒ Remarks in Support of the Pre-Appeal Brief Request for Review (5 pgs)

5000 Plaza On The Lake
Suite 265
AUSTIN, TEXAS 78746

Tel: (512) 327-5515
Fax: (512) 327-5575

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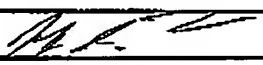
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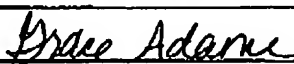
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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10,668,686
	Filing Date	September 23, 2003
	First Named Inventor	Larry B. Pearson, et al.
	Art Unit	2617
	Examiner Name	SAMS, Matthew C.
	Attorney Docket Number	1033-SS00414
Total Number of Pages in This Submission		10

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): (1) Notice of Appeal (1 pg (in dupl.)) (2) Remarks in Support of Pre-Appeal Brief Request for Review (5 pg) (3) Pre-Appeal Brief Request for Review (1 pg)
Remarks CUSTOMER NO.: 60533		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	Toler Schaffer, L.L.P.		
Signature			
Printed name	Jeffrey G. Toler		
Date	9-12-2006	Reg. No.	38,342

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This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 1033-SS00414	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed name Grace Adame		Application Number 10/668,686	Filed September 23, 2003
		First Named Inventor Larry B. Pearson, et al.	
		Art Unit 2617	Examiner SAMS, Matthew C.
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a notice of appeal. The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. Registration number 38,342 <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		Signature Jeffrey G. Toler Typed or printed name Telephone number 512-327-5515 Date 9-12-2006	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.			
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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 1033-SS00414	
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		First Named Inventor Larry B. Pearson, et al.	
		Art Unit 2617	Examiner SAMS, Matthew C.
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I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>38,342</u>		_____ Signature Jeffrey G. Toler _____ Typed or printed name _____ 512-327-5515 Telephone number _____ 9-12-2006 Date	
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____			
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			
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This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.8. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Larry B. Pearson, et al.

Title: LOCATION BASED CALL ROUTING FOR CALL ANSWERING SERVICES

App. No.: 10/668,686

Filed: September 23, 2003

Examiner: SAMS, Matthew C.

Group Art Unit: 2617

Customer No.: 60533

Confirmation No.: 1039

Atty. Dkt. No.: 1033-SS00414

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Alexandria, VA 22313-1450REMARKS IN SUPPORT OF
THE PRE-APPEAL BRIEF REQUEST FOR REVIEW

Dear Sir:

In response to the Final Office Action mailed August 23, 2006 (hereinafter, "Final Office Action"), Applicants respectfully requests review and reconsideration of the Application in view of the following issues.

Claims 1-5, 9-11, 13-19, 23-26, 29, 31-33, and 42 stand rejected under 35 U.S.C 103(a) as being unpatentable over U.S. Pat. No. 4,932,050 ("Davidson") in view of U.S. Pat. No. 6,320,534 ("Goss"). *Final Office Action*, p.2.

In making a rejection under 35 U.S.C. §103, the Patent and Trademark Office has the burden of establishing a prima facie case of obviousness. *MPEP* §2142. Establishing a prima facie case of obviousness requires the prior art references teach or suggest all the claim limitations. *Id.* Applicants respectfully submit that the Final Office Action does not establish a prima facie case of obviousness with regard to claims 1-5, 9-11, 13-19, 23-26, 29, 31-33, and 42 because the asserted combination does not disclose or suggest each feature of the claims.

Claims 1, 13 and 23 are independent claims. Claim 1 recites sorting a list of a plurality of

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addresses identifying communication devices of the subscriber based on the location data. The Final Office Action correctly acknowledges that Davidson does not disclose this feature of claim 1. *Final Office Action*, p. 3. However, the Final Office Action asserts that Goss, at column 5, lines 16-67 discloses this feature. *Id.* In particular, the Final Office Action states that Goss “teaches determining the closest location of a telephone from a list (based on distance) each time an incoming call is made (Col. 5 line 16-67). It is the examiner’s opinion that this is the same as ordering a list.” *Final Office Action*, p. 11.

Goss at column 5, lines 16-67 actually discloses is selecting a telephone within a threshold distance from the subscriber. The method of Goss searches one or more databases to identify telephones within a “specified proximity” to the location of the subscriber. *See Goss*, column 5, lines 15-25 and column 5, lines 60-62. The specified proximity is a threshold distance based on the hearing range of the subscriber. *See Goss*, column 5, lines 25-32. Nowhere does Goss state that the closest telephone to the subscriber is selected. Even when two or more telephones are within the specified proximity, the method of Goss does not select the closest telephone. Rather, the method of Goss selects one of the telephones based on a predefined prioritization. *See Goss*, column 5, lines 38-53. Selecting a telephone within a specified proximity does not disclose or suggest sorting a list of a plurality of addresses identifying communication devices of the subscriber based on the location data, as recited in claim 1. Further, selecting from two or more telephones within the specified proximity using a predefined prioritization does not disclose or suggest sorting a list of a plurality of addresses identifying communication devices of the subscriber based on the location data, as recited in claim 1. Claim 1 is therefore allowable.

Claim 1 also recites selecting a first address from the sorted list of the plurality of addresses. The Final Office Action states that Davidson discloses selecting a first address from a list of a plurality of addresses. *Final Office Action*, p. 3. Applicants respectfully note that selecting a first address from a list of a plurality of addresses is not a feature of claim 1, rather claim 1 recites selecting a first address from a sorted list of the plurality of addresses. Selecting a first address from a list, as the Final Office Action states, is essentially selecting an address at random if the list is not sorted in any particular order. Whereas selecting a first address from a sorted list means that an address having a particular feature will be selected. Davidson does not

PATENT

disclose or suggest selecting the first address from a sorted list of addresses at least because, as the Final Office Action admits, Davidson does not disclose sorting the list of addresses. *Final Office Action*, p. 3. Further, as discussed above, Goss does not disclose or suggest sorting a list of a plurality of addresses identifying communication devices of the subscriber based on the location data. Thus, neither Davidson nor Goss, alone or in combination, disclose or suggest selecting a first address from the sorted list of the plurality of addresses, as recited in claim 1. Claim 1 is therefore allowable for at least this additional reason.

Claim 13 recites a data record further including an ordered list of addresses of the subscriber, the ordered list of addresses reordered based on the changed proximity zone field. As discussed in the Response to Office Action submitted July 8, 2006, which is incorporated herein by reference, Davidson discloses a static order of forwarding calls that is not suggested to be reordered based on changed proximity zone data. *See e.g. Davidson*, Figure 9, and column 10, lines 15-54. Thus, Davidson does not disclose or suggest a data record further including an ordered list of addresses of the subscriber where, the ordered list of addresses is reordered based on the changed proximity zone field, as recited in claim 13.

Goss discloses periodically updating position information for a mobile telephone. *Goss*, column 6, lines 18-33. Goss also discloses a disambiguation method for selecting a telephone when two or more telephones are within a specified proximity to the subscriber. *Goss*, column 5, lines 33-53. The disambiguation method of Goss selects a telephone based on a predefined prioritization. *Id.* Goss does not disclose or suggest that the predefined prioritization is reordered based on a changed proximity zone field. Thus, neither Davidson nor Goss, alone or in combination, disclose or suggest the data record further including an ordered list of addresses of the subscriber, the ordered list of addresses reordered based on the changed proximity zone field, as recited in claim 13. Claim 13 is therefore allowable.

Claim 23 recites wherein the proximity sensor is a charging cradle, the charging cradle configured to provide energy to a battery within the mobile device when the mobile device is positioned in the cradle. The Final Office Action states that Davidson discloses this feature of claim 23 at column 3, lines 36-40 and column 5, line 55 though column 6, line 19 citing an "off-hook" and "on-hook" feature of Davidson. *Final Office Action*, p. 6. The Final Office Action

PATENT

clarifies this assertion somewhat stating that:

Davidson teaches implementing a proximity detection device circuitry that includes an "off-hook" state sender, which would be included inside the base of a telephone (Fig. 2 [162 & 204]) Therefore, it would have been obvious for one of ordinary skill in the art to be motivated to include a small proximity device sensor (designed to be built into another device (Col. 3 line 36-40)) inside a charging cradle for a mobile phone since a charging cradle with a proximity sensor would be analogous to a rotary phone base with an "off-hook" state sender and a proximity detection circuitry (Fig. 2 & Fig. 3). *Final Office Action*, p. 12.

As Applicants understand the argument, the Final Office Action takes the position that a rotary phone base with an "off-hook" state sender discloses a charging cradle for a mobile phone. Applicants respectfully disagree. Nowhere in Davidson or Goss do the terms "charge," "recharge" or "cradle" appear. Applicants fail to see any plausible argument that a rotary phone base with an "off-hook" state sender discloses a charging cradle for a mobile phone. The two devices are entirely different. For example, they include different circuitry, they accomplish different functions, and so forth. Simply put, a rotary phone base with an "off-hook" state sender will not provide energy to a battery within a mobile device when the mobile device is positioned in the cradle. Therefore, the asserted combination does not disclose each feature of claim 23. Claim 23 is therefore allowable.

For at least the reasons discussed above, independent claims 1, 13, and 23 are allowable. Additionally, claims 2-5, 9-11, 14-19, 24-26, 29, 31-33, and 42 which each depend from one of claims 1, 13, and 23, are allowable, at least in light of their dependence from an allowable independent claim.

Claims 6-8 and 20-22 stand rejected under 35 U.S.C 103(a) as being unpatentable over Davidson in view of Goss in further view of U.S. Pat. No. 6,389,117 ("Gross"). *Final Office Action*, p. 8. In rejecting claims 6-8 and 20-22, the Final Office Action relies on the combination of Davidson and Goss to disclose each feature of independent claims 1 and 13. As discussed above, the combination of Davidson and Goss does not disclose or suggest each feature claims 1 and 13. Gross does not cure the deficiencies of Davidson and Goss. Thus, the combination of

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Davidson, Goss and Gross does not disclose each feature of claims 6-8 and 20-22 at least in light of their dependence from claims 1 and 13.

Claims 27, 30 and 34-36 stand rejected under 35 U.S.C 103(a) as being unpatentable over Davidson in view of Goss in further view of U.S. Pat. No. 5,603,054 ("Theimer"). *Final Office Action*, p. 9. In rejecting claims 27, 30 and 34-36, the Final Office Action relies on the combination of Davidson and Goss to disclose each feature of independent claim 23. As discussed above, the combination of Davidson and Goss does not disclose or suggest each feature claim 23. Theimer does not cure the deficiencies of Davidson and Goss. Thus, the combination of Davidson, Goss and Theimer does not disclose each feature of claims 27, 30 and 34-36 at least in light of their dependence from claim 23.


Conclusion

As discussed above, the Final Office Action fails to establish that the cited references and the proposed combinations thereof disclose or suggest the specific combinations of elements recited by the claims. Accordingly, the pending claims are allowable over the cited references. Applicants therefore request reconsideration and withdrawal of all pending rejections.

The Commissioner is hereby authorized to charge any fees, which may be required, or credit any overpayment, to Deposit Account Number 50-2469.

Respectfully submitted,

9-13-2006
Date


Jeffrey G. Toler, Reg. No. 38,342
Attorney for Applicant(s)
TOLER SCHAFFER, L.L.P.
5000 Plaza On The Lake, Suite 265
Austin, Texas 78746
(512) 327-5515 (phone)
(512) 327-5575(fax)